

Case 1 - Fred M.

Fred M. is seventy-eight-years-old. His health is now generally good although his hearing is deteriorating and several years ago he suffered a heart attack. He sees a cardiologist in Anchorage once a year.

His children describe him as a quiet man. He lives in a small cabin in Dillingham, which he owns. He also owns a condominium in Anchorage. A woman friend lives in the condominium under a rental agreement. Fred stays with her when he is in the city, usually for some weeks during the middle of the winter.

For many years Fred fished commercially and he still holds partial ownership of a fishing boat that his son uses. Fred still sometimes goes out on the boat with his son and the fishing crew. Because the son lives in Anchorage most of the year, Fred watches over the boat and equipment during the off-season.

He receives veteran's benefits and social security and has substantial savings.

Last summer Fred's cabin was vandalized. Some things were stolen, including an undetermined amount of cash. Fred was not at home at the time. When he discovered the vandalism, Fred called the police to report it, but he was vague about what might have been taken, and later, he didn't make repairs to the entry where the vandals had broken in. Eventually, after some months, his son organized the repair work.

Recently when a daughter visited from Anchorage, she noticed that Fred is no longer opening his mail. It was scattered around the cabin in random piles. The mail included utility bills which hadn't been paid, as well as bank statements. Fred refused to let his daughter see his checking account statements.

The daughter is concerned that Fred is no longer able to take care of his property or financial assets. She suspects that the woman in the Anchorage condominium is no longer paying her rent, but Fred won't discuss the situation with her. The daughter has never seen the rental agreement. Among the statements and bills accumulating in the Dillingham cabin were notices from the Anchorage condominium association about unpaid fees. When the daughter confronted Fred about these notices, he asserted that he'd paid the fees.

The daughter would feel more at ease if her father moved to Anchorage. She would then be able to oversee his affairs and make certain he saw his doctor regularly. The son is less concerned, although he admits that his father is growing frailer and his short-term memory is weaker.

Fred himself refuses to talk about living in Anchorage permanently. He becomes angry when the topic is raised and tells his daughter "to mind her own business and tend to her own life."

The daughter is thinking of applying for a guardianship. If appointed guardian, she would like to move her father to

Anchorage, clear up the situation with the condominium, and straighten out Fred's other financial affairs.

Study Questions

- Does Fred need help on a daily basis with caring for himself? Does he feed himself and tend to his own grooming and hygiene adequately?
- Does he take care of things like ordering heating oil?
- Has he acted in ways which expose him to danger, such as leaving a stove unattended?
- Does he drive safely?
- When he is on the fishing boat, can he still manage?
- Does he have friends in Dillingham? Does he belong to any community organizations?
- What kinds of legal directives does he have in place, if any? A will? Durable power of attorney?
- Have his doctors said that he needs more care than he is currently receiving?
- Have his acquaintances or neighbors in Dillingham shown concern?
- Does Fred have a lawyer? An accountant?
- What specific events or situations can you describe that show Fred isn't capable of handling his own assets?
- Do you see any sign that he might be a victim of fraud or exploitation?
- Is he making purchases or spending money in unusual ways?

Fred M. Case Conclusion

Fred's daughter was considering applying for a guardianship but gradually accepted that while her father did need some help with his affairs, a guardianship was not appropriate. Although growing frailer and less active, her father is not incapacitated; he handles most of his affairs adequately, although not necessarily in the way the daughter would choose.

Fred takes care of himself quite well on a daily basis. He dresses neatly and eats regularly. While he has occasionally been late in paying bills, this has not become a chronic problem. He has never failed to order heating oil; nor has his electricity or phone ever been disconnected. He occasionally sees his old friends, and he shops for himself. He still looks forward to going out on the fishing boat with his son and crew from time to time. While on the boat, he is still quite competent although not as strong and not as able to help as he used to be. He also still drives and has no record of accidents.

Fred may be growing less able to handle more complicated financial affairs, however. He pays little attention to the condominium in Anchorage when he isn't there. He's content to let his friend remain there whether she is behind in rent or not. He did admit to his son that he simply doesn't remember the terms of

the lease or rental agreement, but he doesn't consider it worth troubling about.

The children discussed whether one of them should apply to be appointed as a conservator but Fred's situation did not warrant this step. He was still quite aware of his financial assets and there was no sign that he was spending money unwisely or being exploited in any way.

Fred did have a will, but he hadn't given durable power of attorney or durable power of health care to anyone. His son argues less with Fred than his sister does and was able to suggest that his dad give one of them power of attorney. After some further discussion, it was agreed that Fred would give the son power of attorney and that the son would investigate the situation with the condominium in Anchorage and decide how best to handle it without evicting Fred's friend. Fred also agreed to give his daughter durable power of health care. He did so with the understanding that he could revoke these agreements at any time. He had a clear understanding of the documents that he was signing.

He also let his children set up automatic bill-paying for his utilities.

With power of attorney the son has been able to oversee the arrangements with the condominium, and he has also been able, with his father's agreement, to negotiate on issues surrounding the use of the fishing boat. The daughter has been able to discuss

her father's health more directly with the doctor and can monitor his care better.

While Fred did need – finally accept – some assistance by agreeing to putting powers of attorney in place, neither a guardianship nor a conservatorship was necessary at the current time.